

U.S. DISTRICT COURT  
DISTRICT OF NEVADA  
FILED

JUN 27 2006

CLERK, U.S. DISTRICT COURT

BY \_\_\_\_\_ DEPUTY

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

JOHN WITHEROW, et al.,

Plaintiff(s),

vs.

JACKIE CRAWFORD, et al.,

Defendant(s).

3:01-CV-0404-LRH (VPC)

**REPORT AND RECOMMENDATION  
OF U.S. MAGISTRATE JUDGE**

This Report and Recommendation is made to the Honorable Larry R. Hicks, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4.

Defendants moved to dismiss plaintiff Barbara Keenan with prejudice for failure to prosecute pursuant to Fed.R.Civ.P. 41(b) (#154). The parties were provided with notice of the motion to dismiss pursuant to the requirements of *Klingele v. Eikenberry*, 849 F.2d 409 (9<sup>th</sup> Cir. 1988), and *Rand v. Rowland*, 154 F.3d 952 (9<sup>th</sup> Cir. 1998) (#156). No opposition was filed.

Plaintiff Barbara Keenan has failed to communicate with her attorney, Donald Evans, since early 2005 (#124). In January 2006, Mr. Evans moved to withdraw as attorney for Ms. Keenan (#124). Notice of the motion was mailed to Ms. Keenan at her last known address (#129). No opposition was filed, and the motion was granted (#136).

Furthermore, Ms. Keenan has refused to participate in discovery, including failing to appear for her properly noticed deposition (#154). The court concludes that Ms. Keenan has abandoned her claims and waived her right to a disposition on the merits. Therefore, it is recommended that Barbara Keenan be dismissed with prejudice.

1 The parties should be aware of the following:

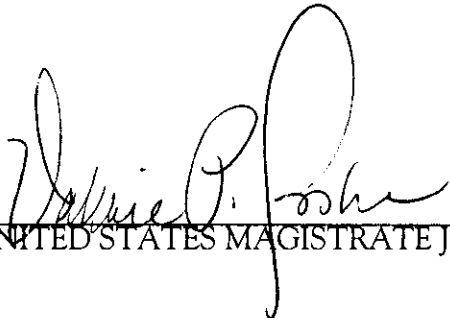
2 1. They may file, pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule IB 3-2 of the Local Rules  
3 of Practice, specific written objections to this Report and Recommendation within ten (10) days of  
4 receipt. These objections should be titled "Objections to Magistrate Judge's Report and  
5 Recommendation" and should be accompanied by points and authorities for consideration by the District  
6 Court.

7 2. This Report and Recommendation is not an appealable order, and any notice of  
8 appeal pursuant to Rule 4(a)(1), Fed. R. App. P., should not be filed until entry of the District Court's  
9 judgment.

10 RECOMMENDATION

11 For the reasons stated above, the undersigned Magistrate Judge recommends that the District  
12 Judge enter an order dismissing plaintiff Barbara Keenan with prejudice.

13 DATED: June 22, 2006.

14  
15  
16   
17 UNITED STATES MAGISTRATE JUDGE  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28